

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED

July 1, 2010

In the Matter of R. W. KNAPP, Minor.

No. 296008

Cass Circuit Court

Family Division

LC No. 08-000170-NA

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Before: SHAPIRO, P.J., and JANSEN and DONOFRIO, JJ.

PER CURIAM.

Respondent L. B. O'Connor (respondent) appeals by right the trial court's order terminating her parental rights pursuant to a release, MCL 710.29(7). We affirm. This appeal has been decided without oral argument. MCR 7.214(E).

The child became a temporary court ward in August 2008 after child protective proceedings were initiated under the Juvenile Code, MCL 712A.1 *et seq.* Petitioner filed a supplemental petition for termination of respondent's parental rights in October 2009. On the date set for hearing, respondent released her parental rights to the child.

Respondent's sole claim on appeal is that the trial court failed to comply with the requirements of MCL 710.29(6) before accepting the release, and that the release was therefore not knowingly and voluntarily made. Whether the trial court complied with statutory requirements is a question of law. We review questions of law de novo. *Minority Earth Movers, Inc v Walter Toebe Constr Co*, 251 Mich App 87, 91; 649 NW2d 397 (2002). However, respondent did not raise this issue below or seek revocation of the release in accordance with MCL 710.29(10) and MCL 710.64. Therefore, this issue is not preserved, *Keenan v Dawson*, 275 Mich App 671, 681; 739 NW2d 681 (2007); *In re Baby Girl Fletcher*, 76 Mich App 219, 221; 256 NW2d 444 (1977), and our "review is limited to determining whether a plain error occurred that affected substantial rights," *In re Egbert R Smith Trust*, 274 Mich App 283, 285; 731 NW2d 810 (2007).

A release "is valid if executed in accordance with the law at the time of execution." MCR 3.801(B). The release must be executed by the parent before a judge of the court or a referee. MCL 710.28(1)(a); MCL 710.29(1). The parent must also execute a verified statement containing certain information prescribed by statute. MCL 710.29(5). However, the release may not be executed "until after the investigation the court considers proper and until after the judge" fully explains to the parent her legal rights and the fact that those rights will be relinquished permanently. MCL 710.29(6); *In re Blankenship*, 165 Mich App 706, 711-712; 418 NW2d 919



(1988). Further, if the child is over the age of five, the court must find “that the child is best served by the release.” MCL 710.29(6). Upon execution of the release by the parent, the court must enter an order terminating the parent’s rights to the child. MCL 710.29(7).

The record shows that the trial court duly advised respondent of the various parental rights she would give up pursuant to the release, but did not specifically advise her that she would give up those rights permanently. Therefore, it is arguable that respondent has shown plain error in this case. However, even assuming arguendo that the trial court plainly erred in this regard, the record also indicates that respondent received a form entitled “Release of Child by Parent” and that she read it before signing it. The form indicated that by signing the release, respondent would “voluntarily give up permanently all of my parental rights to my child” and that she agreed to “give up completely and permanently my parental rights to my child[.]” Because respondent was in fact made aware of the permanent nature of the release, we cannot conclude that the court’s error was decisive to the outcome or affected respondent’s substantial rights.

Respondent’s claim that the release was otherwise involuntary is not supported by the record. Respondent expressly acknowledged that she signed the release “of [her] own free act and deed.” We perceive no outcome-determinative error requiring reversal in this case.

Affirmed.

/s/ Douglas B. Shapiro

/s/ Kathleen Jansen

/s/ Pat M. Donofrio